

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

UNITED STATES OF AMERICA :	:	
	:	CRIMINAL NO. 7:12-CR-39 (HL)
v.	:	
	:	
OTTO G. PENA	:	
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ORDER FOR THE DESTRUCTION OF FIREARM

Before the Court is the Government's motion for an order authorizing the destruction of a firearm, to wit: One (1) Sig Sauer, Model P220, .45 caliber pistol, Serial Number G238352 (hereinafter referred to as the "subject property"). Upon consideration of said motion, the Court finds that:

1. The Lowndes County Sheriff's Office, currently has in its possession the subject property, which was seized by the Agency in connection with the above-styled criminal case.

2. Without an order of this Court authorizing the Agency to destroy the subject property, the Agency would be required to maintain, at an ever increasing cost, custody and control of the subject property for an indefinite period of time. There would not be any corresponding benefit to the public in having the Agency maintain custody and control of the subject property.

3. Pursuant to Title 18, United States Code, Section 922(g)(1), it is unlawful for any person who has been convicted in any court of crime punishable by imprisonment for a term exceeding one year, to ship, or transport in interstate or foreign

commerce, or possess in or affecting commerce, any firearm; or to receive any firearm which has been shipped or transported in interstate or foreign commerce.

4. Firearms should not be returned to convicted felons, and it would be improper to allow a third party to take possession and to sell the firearm on a convicted felon's behalf, because the felon would profit from items that they can no longer legally possess.

5. Currently, there is no specific statute authorizing the destruction of the subject property in the circumstances described herein. However, the All Writs Act authorizes "[t]he Supreme Court and all courts established by Act of Congress . . . [to] issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a).

THEREFORE, IT IS ORDERED, that the Lowndes County Sheriff's Office, may destroy the following weapon: One (1) Sig Sauer, Model P220, .45 caliber pistol, Serial Number G238352.

SO ORDERED, this 12th day of August, 2014.

s/ Hugh Lawson
HUGH LAWSON, SENIOR JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORIGIA

PREPARED BY:

MICHAEL J. MOORE
UNITED STATES ATTORNEY

s/ DANIAL E. BENNETT
ASSISTANT UNITED STATES ATTORNEY
GEORGIA STATE BAR NO. 052683